

OA 91 Criminal Complaint

## United States District Court

NORTHERN

DISTRICT OF

CALIFORNIA

UNITED STATES OF AMERICA  
V.**FILED**

CRIMINAL COMPLAINT

**WDB**

APR X 4 2007

4 • 07 - 70198

Case Number: \_\_\_\_\_

Sanuario Montoya-Ortiz  
(a/k/a Alfonso Montoya-Ortiz)RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state that the following is true and correct to the best of my knowledge and belief. On or about March 31, 2007 in Contra Costa County, in the NORTHERN District of CALIFORNIA defendant(s) did,

(Track Statutory Language of Offense)

an alien having been previously deported from the United States, was found in Contra Costa County in the State and Northern District of California, without having obtained express consent for re-application for admission from either the Attorney General of the United States or his successor, the Secretary for Homeland Security (Title 6, United States Code, Sections 202(3), (4) and 557)

in violation of Title 8 United States Code, Section(s) 1326

I further state that I am a(n) Deportation Officer and that this complaint is based on the following facts:

Official Title

See Attached Affidavit incorporated herein by reference.

Maximum Penalties: 20 years imprisonment; \$250,000.00 fine; 3 years supervised release and \$100 special assessment.

Continued on the attached sheet and made a part hereof:

☒ Yes☐ No

Approved Bryan R. Whittaker  
As To BRYAN R. WHITTAKER, Special Assistant U.S. Attorney  
Form: AUSA

Cecyle Andrews  
Name/Signature of Complainant

Sworn to before me and subscribed in my presence,

Date

4/4/07

at

San Francisco, California

City and State

EDWARD M. CHEN

U.S. Magistrate Judge

Name &amp; Title of Judicial Officer

Signature of Judicial Officer

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Cecyle J. Andrews, being duly sworn, do hereby state:

1. I am a Deportation Officer with the United States Department of Homeland Security ("DHS"), Immigration and Customs Enforcement ("ICE"). I have been employed in this capacity since December 18, 1988.

2. I have reviewed the official Alien Registration File and the automated criminal records relating to Sanuario Montoya-Ortiz ("Montoya"), a/k/a Alfonso Montoya-Ortiz, which attest to the following:

- a. Montoya, is a thirty-three (33) year-old male, native and citizen of Mexico, who last entered the United States illegally by crossing the international border on an unknown date in 2003, at or near Nogales, Arizona, in an unknown manner, without first having obtained the consent of the Attorney General of the United States or the U.S. Secretary of Homeland Security.
- b. Montoya's official Alien Registration File contains executed Warrants of Deportation indicating that Sanuario Montoya-Ortiz was deported from the United States to Mexico through Nogales, Arizona on December 12, 1997 and March 5, 2003, and through San Ysidro, California on November 4, 2002.

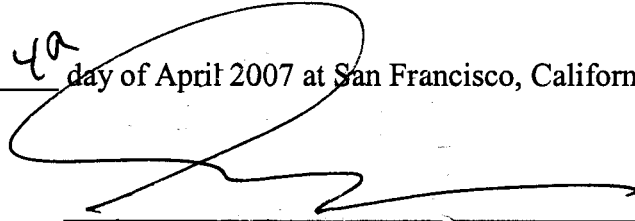
3. On March 31, 2007, Immigration and Customs Enforcement (ICE) encountered Montoya pursuant to his arrest in Antioch, California on unrelated charges. On that same date an immigration detainer was lodged.
4. On April 2, 2007, Immigration Enforcement Officer, Ching Chang interviewed Montoya at the Immigration and Customs Enforcement's San Francisco District Office. Montoya provided a sworn statement in which he admitted that he was a citizen and national of Mexico, and that he had been previously deported to Mexico.
5. On April 2, 2007, Montoya was released to Immigration and Customs Enforcement in San Francisco, California. Montoya's fingerprints and photos were submitted into the Auto Biometric Identification System ("IDENT"). IDENT information confirmed Montoya's identity.
6. On April 3, 2007, a full set of rolled fingerprints belonging to Montoya were submitted to the Automated Fingerprint Identification Center ("AFIS") for verification of identity. The fingerprint examiner positively identified the fingerprints as belonging to the same Sanuario Montoya-Ortiz who had previously been removed from the United States as referenced above in paragraph 2.
7. There is no indication in the official files of the United States Department of Homeland Security that Sanuario Montoya-Ortiz ever applied for or obtained the permission of the United States Attorney General or the Secretary of Homeland Security to reenter the United States.

8. Based upon the facts described above, I believe that there is probable cause that the defendant, Sanuario Montoya-Ortiz having previously been deported from the United States, has been found in the United States without the required permission, in violation of Title 8, United States Code, Section 1326.



Cecyle J. Andrews  
Deportation Officer  
U.S. Department of Homeland Security  
Immigration and Customs Enforcement  
San Francisco, California

Subscribed and sworn to before me this 4<sup>th</sup> day of April 2007 at San Francisco, California.



**Honorable Edward M. Chen**  
United States Magistrate Judge  
Northern District of California  
San Francisco, California